



*Linger*  
Attorney General  
STATE CAPITOL  
Phoenix, Arizona 85007

Robert R. Corbin

May 22, 1981

LAW LIBRARY  
ARIZONA ATTORNEY GENERAL

Mr. Michael G. Prost  
Deputy County Attorney  
Office of the County Attorney  
Coconino County Court House  
Flagstaff, Arizona 86001

Re: I81-075(R81-074)

Dear Mr. Prost:

We have reviewed your April 7, 1981 letter to the Chairman of the Board of Education of Chevelon Butte School District No. 5. We concur with your opinion in which you state that a school district may not restrict the requirement of providing necessary transportation to handicapped children, set forth in A.R.S. § 15-764.A.4 (formerly A.R.S. § 15-1015.A.4) to certain categories of handicapped children. We also concur with your conclusion that a school district must provide necessary transportation for all handicapped children consistent with A.R.S. § 15-761.A.4 and prior Attorney General Opinions Nos. 77-191, 179-132, and 180-063. Of course, the question whether an individual child requires such transportation must necessarily be determined on a case-by-case basis.

Sincerely,

*Bob Corbin*

BOB CORBIN  
Attorney General

BC:LPS:clp



OFFICE OF

## County Attorney

COCONINO COUNTY  
COCONINO COUNTY COURT HOUSE  
Flagstaff, Arizona 86001  
774-6011

JOHN VERKAMP  
COUNTY ATTORNEY

April 7, 1981

5-11-81 *hpc*  
LASSEN  
R81- 074

Mr. Hal Gaustad, Chairman  
Board of Education  
Chevelon Butte School District No. 5  
P.O. 1917  
Forest Lakes Estates  
Heber, Arizona, 85928

### EDUCATION OPINION

ISSUE NO LATER THAN

7-10-81

Re: Duty of School District to transport special  
education students

Dear Mr. Gaustad:

At your request I have reviewed my letter of January 19, 1981, regarding the above subject in light of Mr. Gayland Jones's letter of February 19, 1981. In that letter Mr. Jones suggests that the school district has no duty to transport special education students unless they fall into one of three categories:

1. Physically handicapped students who would not be able to make it to school on their own because of their handicap;
2. Severely mentally handicapped students who could not be expected to get to school on their own;
3. Severely emotionally handicapped students who would be a danger to themselves or others on their way to school.

Your specific question is whether the mandatory duty of a school district to transport special education students pursuant to ARS §15- 764 (A) (4) is limited to these three categories.

Mr. Hal Gaustad

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This letter will reaffirm the opinion which I have already written you on January 19, 1981. There is no support under state or federal law for the three categories mentioned in Mr. Jones's letter.

The duty of a school district to transport special education students is set forth in ARS §15-764.A.4 (formerly §15-1015.A.4) as follows:

The governing board of each school district or the County School Superintendent shall \*\*\* provide necessary transportation for handicapped children in connection with any program, class or service.

The child who prompted your inquiry has been judged to be "learning disabled," and she participates in the special education program at Capps Elementary School under a certificate of educational convenience issued by the County School Superintendent. A child who is "learning disabled" comes within the meaning of a "handicapped child" as stated in ARS §15-761 (formerly §15-1011), and therefore this child is entitled to transportation to and from school at district expense. The Attorney General has ruled that a school district is required to transport special education students without exception. See Attorney General opinion I79-132, issued May 22, 1979 and Attorney General opinion 77-191, issued on October 21, 1977.

As these opinions indicate, the parents of a handicapped child may transport the child to and from school themselves, and the school district may reimburse the parents for their mileage and travel expenses. As I indicated previously, the County School Superintendent has funds to assist the school district in this regard. However, the mandate to provide transportation for special education students rests on the board and not on the parents. If the parents refuse to provide transportation for their child, then the district must do so. This statement emphatically does not mean that the school district is required to purchase a separate school bus and hire a special bus driver solely for the benefit of only one student in special education. However, the manner in which the school board carries out their duty is a factual matter for the board alone to determine and on which this office offers no opinion.

Mr. Hal Gaustad

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I am forwarding this opinion to the Attorney General  
for his review pursuant to ARS §15-122 (B).

Very truly yours,

JOHN VERKAMP  
Coconino County Attorney

*Michael G. Prost*  
Michael G. Prost  
Deputy County Attorney

MGP/vf

cc: Honorable Robert K. Corbin  
Betty Jo Anderson